

REMARKS

Claims 1-8 remain pending. No claims are added, amended, or canceled.

The disclosure stands objected to because of informalities, as explained on page 2 of the Office Action. In response, applicants amend the specification as shown above. Applicants also address other informalities, as also shown above. Accordingly, withdrawal of the objection to the disclosure is now requested.

The drawings stand objected to based on an understanding that Figs. 3-6 show only prior art. However, the Office Action provides no indication of why it is believed that Figs. 3-6 only show prior art. With respect to Fig. 3, applicants amend that drawing to have the label "Prior Art."

However, Figs. 4-6 do not show only prior art, as stated in the Office Action. Instead, the figures contain formulae to be used in a simulator for an automatic vehicle transmission controller. Therefore, those figures should not have the label "Prior Art."

In view of this explanation, applicant request that the objection to the drawings be withdrawn. If it is still believed that the objection is proper, applicants request that the next Office Action provide an explanation of why it is believed that Figs. 4-6 show only prior art.

Claims 1-8 stand provisionally rejected under the doctrine of obviousness-type double patenting as unpatentable over claims 1-34 of co-pending Application No. 09/925,743. Applicants respectfully traverse this rejection as improper.

Applicants disagree that the claim scope of Application No. 09/925,743 differs only in obvious ways from the claim scope of the present application. For one reason, claim 1 of the present application describes a simulator which performs some functions "at a first calculation cycle" and other functions "at a second calculation cycle," and the claim further specifies that the

second calculation cycle “is shorter than the first calculation cycle.” The Office Action does not explain how Application No. 09/925,743 supposedly claims a simulator having this feature or having an obvious variant of this feature. Therefore, the provisional rejection is not justified for at least this reason.

Nonetheless, the rejection relies on an application that has not yet issued as a patent, so the rejection is “provisional.” Manual of Patent Examining Procedure (MPEP) § 804 (at page 800-19) indicates that such a rejection may continue to be made by the examiner (if not overcome on the merits) when there are conflicting claims in more than one application, unless the provisional double patenting rejection is the only rejection. Then, as directed in the MPEP, the examiner should withdraw the rejection and allow the application.

As explained above, the rejection is not proper, so it should be withdrawn as overcome on the merits. As explained below, there should be no other rejections. For either of these two reasons, applicants now solicit the withdrawal of the obviousness-type double patenting rejection.

Claims 1 and 2 stand rejected under 35 U.S.C. § 103(a) as obvious over Hong et al. (Wiley InterScience) in view of Munns (University of Wisconsin-Madison) and further in view of Yanakiev (UCLA Electrical Engineering). Applicants respectfully traverse this rejection.

Claim 1 (and claim 2 by virtue of its dependency from claim 1) describes a simulator that includes a computer, which stores computer-aided design programs that include means for calculating outputs and for inputting the outputs at a “first calculation cycle” or at a “second calculation cycle.”

Specifically, the claims specify the following: (1) that a first calculating means is for calculating outputs that describe the behaviors of an engine, a transmission, and a body of a vehicle at a “first calculation cycle”; and (2) that a second calculating means is for inputting

some of the calculated outputs (from the first calculating means) and for calculating an output describing non-linear behavior at a “second calculation cycle”.

Applicants emphasize that the claims further specify that the “second calculation cycle [] is shorter than the first calculation cycle.” Applicants also respectfully assert that the Office Action does not justify the rejection by providing a proper explanation of how the prior art supposedly teaches or suggests this feature.

In the discussion of the Hong et al. disclosure in the Office Action on page 6, it is stated that “calculation cycles are inherent in Hong.” Of course, to simulate physical properties (for example, velocity) of individual moving elements in an automatic transmission, some calculations *might* be repeated, and the time between one such calculation and the next *might* be labeled a “cycle.”

However, the claims specify different calculation cycles for different actions, and the claims further specify some of the actions having a shorter calculation cycle than others of the actions. Therefore, even if it were inherent (or even obvious) that Hong et al. disclosed the use of calculation cycles in automatic transmission simulation, to justify rejection of claims 1 and 2, it would be necessary to explain how Hong et al. supposedly discloses the use of two different calculation cycles as specifically described in the claims. No such showing is provided by merely stating that the claim feature of a “second calculation cycle which is shorter than the first calculation cycle” is inherent. The Office Action provides no such explanation of how such a feature could have been inherent, and applicants find no support for such a position in their own study of Hong et al.

Without such a teaching or suggestion of the two different calculation cycles as specifically described in the claims, the rejection cannot be justified. Accordingly, applicants solicit the withdrawal of the obviousness rejection of claims 1 and 2.

Claims 3 and 4 stand rejected under 35 U.S.C. § 103(a) as obvious over Hong et al. in view of Munns, and further in view of Havener et al. (U.S. Published Patent Application 2003/0018399). Applicants respectfully traverse this rejection.

The rejection of claims 3 and 4 relies on Hong et al. and Munns to reject base claim 1. However, as just shown above, Hong et al. and Munns cannot render claim 1 unpatentable. Therefore, the rejection of claims 3 and 4 cannot be proper.

Accordingly, applicants solicit the withdrawal of the obviousness rejection of claims 3 and 4.

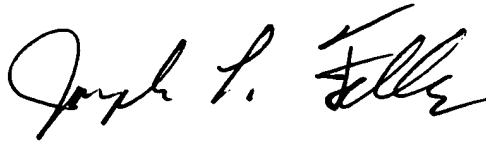
Claims 5-8 stand objected to for depending from a rejected base claim, but the Office Action indicates that they would be allowable if claims 5-7 are rewritten in independent form.

However, as discussed above, the rejection of base claim 1 should be withdrawn. Therefore, it should not be necessary to rewrite claims 5-7 in independent form to gain their allowance.

In view of the remarks above, applicants now submit that the application is in condition for allowance. Accordingly, a Notice of Allowability is hereby requested. If for any reason it is believed that this application is not now in condition for allowance, the Examiner is welcome to contact applicants' undersigned attorney at the telephone number indicated below to arrange for disposition of this case.

In the event that this paper is not timely filed, applicants petition for an appropriate extension of time. The fees for such an extension, or any other fees which may be due, may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read "Joseph L. Felber". The signature is fluid and cursive, with the first name "Joseph" and last name "Felber" clearly distinguishable.

Joseph L. Felber
Attorney for Applicants
Reg. No. 48,109

Atty. Docket No. 010315

1250 Connecticut Avenue, N.W., Suite 700
Washington, DC 20036
Tel: (202) 822-1100
Fax: (202) 822-1111

Enclosure: Replacement drawing sheet

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